

**BOARD OF APPEALS CASE NO. 5041**

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**BEFORE THE**

**APPLICANTS: LaKeisha & Santiago  
Maldonado**

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**ZONING HEARING EXAMINER**

**REQUEST: Variance to allow 2 lots on a  
panhandle in the R1 District;  
1118-A Bush Road, Abingdon**

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**OF HARFORD COUNTY**

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**Hearing Advertised**

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**Aegis: 4/19/00 & 4/26/00**

**HEARING DATE: June 7, 2000**

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**Record: 4/21/00 & 4/28/00**

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### **ZONING HEARING EXAMINER'S DECISION**

The Applicants, LaKeisha and Santiago Maldonado, are requesting a variance from Section 267-22G(1) of the Harford County Code, to allow the creation of more than one panhandle lot in an R1 Urban Residential District. The Applicants are proposing the creation of a total of two (2) panhandle lots.

The subject property is located at 1118 and 1118-A Bush Road, Abingdon, in the First Election District. The parcel is more specifically identified as Parcel No. 183, in Grid 2C, on Tax Map 62. The parcel contains approximately 1.44 acres, all of which is zoned R1. The property is owned by Evelyn and Morris Brice, 1118 Bush Road, Abingdon.

The Applicant, Ms. LaKeisha Maldonado, who resides at 1907 Southridge, Edgewood, appeared and testified that her grandparents, Evelyn and Morris Brice, own the subject property which is currently designated as 1118 Bush Road in Abingdon. The Brices would like to subdivide the property into two lots, giving the subject parcel (1118-A Bush Road) to the Applicants as a wedding gift. Since the existing parcel is already a panhandle lot, with a very small amount of frontage on Bush Road, the only way to subdivide the property is to create a second panhandle lot, utilizing a common drive for both parcels to access the roadway. As a result, a variance is needed to create the second lot for the Applicants. Ms. Maldonado testified that the property is unique because of this panhandle shape and the limited amount of frontage available for the access drive. According to Ms. Maldonado, the proposal would create two lots, one with just over one-half ( $\frac{1}{2}$ ) an acre of land, and the other approximately three-quarters ( $\frac{3}{4}$ ) of an acre in size. There is an existing home on the property where her grandparents now live which is located on the proposed lot to the rear, and the Applicants would build a new home on the front parcel.

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**Ms. Maldonado indicated that this property adjoins a residential development which contains smaller lots, although those lots have more road frontage than the subject property. It was Ms. Maldonado's testimony that denial of the variance would cause her family unreasonable hardship because it would effectively prohibit them from utilizing the gifted lot and from building a home there. She noted that the new residential development directly behind her parents' property was once all owned by her great-grandfather, all the way to Route 7. New homes are being constructed all around the subject property and her proposal is consistent with other residential development in the area. Ms. Maldonado testified that she was not aware of any opposition to her request and she did not believe that approval of the variance request would be detrimental in any way to the adjoining properties, nor would it impair the purpose of the zoning code. She indicated that she had read the Staff Report prepared by the Department of Planning and Zoning (marked and admitted as Applicants' Exhibit No. 3), including the recommended conditions, and she agreed to comply with them if the variance is approved. Ms. Maldonado further noted that it is very important to her and her husband that they live next to her grandparents and stay in the area. She also agreed that she would arrange to have a common drive easement agreement prepared and executed if the request is granted.**

**Mr. Ronald M. Kearney, 4401 Philadelphia Road, Bel Air, appeared and testified that he is a professional land surveyor with KLS Consultants, Inc. and has been employed with the firm for the past twelve years. Mr. Kearney indicated that he was involved in the preparation of the preliminary plan for the subject property, which is included in the Staff Report prepared by the Department of Planning and Zoning as Attachment 3. According to Mr. Kearney, the subject property has unique features particularly due to the fact that it is a panhandle lot with only twenty-eight (28) feet of frontage along Bush Road. Water and sewer service is available to the property and, according to Mr. Kearney, there is more than enough acreage to subdivide the parcel into two lots. However, this cannot be done without creating a second panhandle because of the shape of the original parcel.**

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Mr. Kearney testified that denial of the variance request would cause hardship to the Applicants because there would be no other way to divide the property in a manner consistent with the neighborhood or with the Code. It was Mr. Kearney's testimony that approval of the variance would not cause any substantial detriment to surrounding properties or to the neighborhood as a whole, and there would be no impairment to the intent or purpose of the Code.

No witnesses appeared in opposition to the request.

### **CONCLUSION:**

The Applicants are requesting a variance to allow the creation of two (2) panhandle lots in an R1 Urban Residential District, one more than is currently permitted under Section 267-22G(1) of the Harford County Code. Section 267-22G(1) provides:

"Except in Agricultural and Rural Residential Districts, with regard to any parcel, as it existed on September 1, 1982, not more than one (1) lot or five percent (5%) of the lots intended for detached dwellings, whichever is greater, and not more than ten percent (10%) of the lots intended for attached dwellings may be panhandle lots."

In addition to the Code section relating to panhandle lots, Section 267-11A of the Code provides that variances may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest."

The uncontradicted evidence offered by way of testimony and documented in exhibits, including the Staff Report of the Department of Planning and Zoning, demonstrates that the circumstances relating to the subject property and surrounding parcels are unique. The original parcel itself, prior to subdividing, is a panhandle lot with very little frontage along the roadway; in fact, it has just enough frontage to provide driveway access to the existing parcel and the proposed lot.

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While the zoning classification will support the creation of an additional lot (the minimum lot area for a single family detached home in a R1 District is only 20,000 square feet), the only configuration possible for an additional lot based upon the availability of road access is another panhandle. In addition, the subject property is surrounded by lots of similar or smaller size to that of the two proposed parcels. Subdivision of the original parcel as proposed by the Applicants would bring the resulting two lots into conformity with the surrounding neighborhood.

The evidence presented also demonstrates that denial of the variance request would cause practical difficulty and undue hardship for the Applicants and for the owners of the original parcel. Without approval, there would be no way to subdivide the property in a usable manner for residential purposes, and other uses might be precluded as well. The Applicants would be denied the ability to build a home on their own property. There was no evidence to suggest that the proposed request would have any detrimental effect on adjacent properties, nor would it materially impair the purpose of the Code or the public interest. To the contrary, approval of the variance would be consistent with the zoning classification and would bring the resulting two lots into conformity with the surrounding neighborhood.

Therefore, it is the recommendation of the Hearing Examiner that the Applicants' request to allow the creation of a second panhandle lot in an R1 District be approved, subject to the following conditions:

1. The Applicants shall submit preliminary and site plans for review and approval;
2. The subdivision plan shall be recorded in the Land Records of Harford County prior to the issuance of any building permits;
3. The Applicants shall prepare and execute a common drive easement agreement to provide access to both lots;
4. The Applicants shall obtain any and all necessary permits and inspections.

Date AUGUST 8, 2000

Valerie H. Twanmoh  
Zoning Hearing Examiner